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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/649,399 | 08/28/2000 | John F. Travers | 29939/30002 | 7200 |

7590 09/04/2002

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EXAMINER

NOVOSAD, JENNIFER ELEANORE

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3634

DATE MAILED: 09/04/2002

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/649,399

Applicant(s)

TRAVERS ET AL.

Examiner

Jennifer E. Novosad

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 5-8 and 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 9-15, 17 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Request for Continued Examination

The request filed on July 31, 2002 (Paper No. 15) for a Request for Continued Examination (RCE) under 37 CFR 1.53(d) based on parent Application No. 09/649,399 is acceptable and a RCE has been established. An action on the RCE follows.

Status of the Claims

Claims 5-8 and 16 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no *allowable* generic or linking claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 9, 10, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Halvorsen '366.

Halvorsen '366 discloses an assembly comprising a dish drainer (B) and a discrete and separate tray (A - see Figure 2); the dish drainer (B) having a perforate base (b) and a perimeter wall extending upward therefrom and thereby defining an interior (see Figure 1); the assembly

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further comprising a silverware compartment (C) which is detachable from the assembly and which is sized to fit entirely within the interior of the drainer; the compartment (C) having locking components (at C) which are locked together with locking components (ends of D) of tray (A) when the compartment is attached to the tray; the tray (A) includes at least one hinge (see Figure 2 where D meets A) so that the tray can be folded about the hinge to position the tray in the deployed position, i.e., Figure 2; the tray (A) being positionable in a first deployed position (see Figure 1) whereby the tray is disposed beneath the drainer and the tray having a footprint larger than the base of the drainer and in a second storage position (see Figure 5) whereby the tray fits entirely within the interior of the drainer.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 4, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Halvorsen '366, alone.

Halvorsen '366 discloses the assembly as advanced above.

The claims differ from Halvorsen '366 in requiring: (a) the tray to be plastic (claims 2 and 4); (b) the tray to have a living hinge; and (c) the locking components to define a plurality of holes which receive a plurality of pegs.

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With respect to (a), although Halvorsen '366 discloses the assembly being made from metal, it would have been an obvious design choice to one of ordinary skill in the art at the time the invention was made to have fabricated the tray from plastic for ease in economy and manufacture.

With respect to (b), although Halvorsen '366 does not disclose the use of a living hinge, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the tray with a living hinge (disposed between D and A) for ease in assembly and manufacture.

With respect to (c), although Halvorsen '366 shows the locking components defining a tab disposed on the tray and a plate disposed on the compartment, it would have been an obvious design choice to one of ordinary skill in the art at the time the invention was made to have provided the tray with a peg and the compartment with a hole, to thereby increase securement of the compartment when attached to the tray.

Claims 13-15, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Halvorsen '366 in view of Todd '054.

Halvorsen '366 discloses the assembly as advanced above.

The claims differ from Halvorsen '366 in requiring a package (claim 13) defining a folding carton (claim 14).

Todd '054 teaches that it is old in the art to utilize a folding carton to package an assembly.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the assembly of Halvorsen '366 with a package sized to contain the assembly in the stored position (Figure 5) thereby allowing for ease in shipping of the assembly.

Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Halvorsen '366 as applied to claims 1, 3, 9, 10, and 12 above, and further in view of Kaufman *et al.* '984.

Halvorsen '366 discloses the assembly as advanced above.

The claims differ from Halvorsen '366 in requiring a package (claim 18) defining plastic film (claim 19).

Kaufman *et al.* '984 teach that it is old in the art to utilize plastic film to package an assembly.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the assembly of Halvorsen '366 with a package sized to contain the assembly in the stored position (Figure 5) thereby allowing for ease in shipping of the assembly.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Krienitz shows an assembly comprising a foldable, i.e., rollable, tray. Maydwell *et al.* show an assembly having a tray (174) that is folded by means of a living hinge.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer E. Novosad whose telephone number is (703)-305-2872. The examiner can normally be reached on Monday-Thursday, 5:30am-4:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703)-308-2686. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-305-3597 for regular communications and (703)-305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1113.

Jennifer E. Novosad/jen
August 30, 2002

A handwritten signature in cursive script that reads "Daniel P. Stodola". The signature is written in black ink and is positioned above the printed name and title.

DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600